

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

JOE FIERRO,

Plaintiff,

v.

J. RUIZ, et al.,

Defendants.

No. 1:24-cv-01413 KES GSA (PC)

ORDER DIRECTING PLAINTIFF TO SHOW  
CAUSE WHY THIS MATTER SHOULD NOT  
BE DISMISSED FOR FAILURE TO  
PROSECUTE AND FOR FAILURE TO OBEY  
A COURT ORDER

(ECF No. 12)

PLAINTIFF'S SHOWING OF CAUSE OR, IN  
THE ALTERNATIVE, THE FILING OF HIS  
FIRST AMENDED COMPLAINT DUE IN  
TWENTY-ONE DAYS

Plaintiff, a state prisoner proceeding pro se and in forma pauperis, has filed this civil rights action seeking relief under 42 U.S.C. § 1983. The matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

For the reasons stated below, Plaintiff will be ordered to show cause why this matter should not be dismissed for failure to prosecute and for failure to obey a court order. As an alternative to filing the showing of cause, Plaintiff may file a first amended complaint. Plaintiff will be given twenty-one days to take either course of action.

I. RELEVANT PROCEDURAL HISTORY

On November 19, 2024, Plaintiff's complaint and his application to proceed in forma

1 pauperis were docketed. ECF Nos. 1, 2. Shortly thereafter, Plaintiff's application to proceed in  
2 forma pauperis was granted.

3 Thereafter, on December 12, 2024, and on December 19, 2024, Plaintiff's motion for  
4 leave to file a correction to page one of the complaint, and his motion for leave to file an amended  
5 complaint were docketed. See ECF Nos. 10, 11 (respectively). On December 23, 2024, the Court  
6 granted Plaintiff's motion for leave to amend, but denied Plaintiff's motion for leave to file a  
7 correction of page one of his complaint. ECF No. 12. Consistent with that order, Plaintiff was  
8 given thirty days to file an amended complaint. Id. at 3.

9 More than thirty days have passed and Plaintiff has not filed an amended complaint, nor  
10 has he filed a request for an extension of time to do so. He has not responded to the Court's order  
11 in any way.

## 12 II. DISCUSSION

13 Both the Court and the public have an interest in the disposal of cases in an expedient  
14 manner. See generally Hernandez v. City of El Monte, 138 F.3d 393, 399 (9th Cir. 1998)  
15 (presuming public has interest in expeditious litigation). Plaintiff's failure to file an amended  
16 complaint as ordered has stalled this process, and it warrants the Court issuing an order directing  
17 him to show cause why this matter should not be dismissed for failure to prosecute and for failure  
18 to obey a court order. He will be given twenty-one days to do so. As an alternative to Plaintiff  
19 filing a showing of cause, within the same twenty-one-day period, Plaintiff may instead file the  
20 first amended complaint as he was previously ordered to do.

21 Accordingly, IT IS HEREBY ORDERED that:

22 1. The Clerk of Court shall send Plaintiff a copy of the Court's Civil Rights Complaint  
23 By a Prisoner form;

24 2. Within twenty-one days from the date of this order, Plaintiff shall SHOW CAUSE  
25 why this matter should not be dismissed for failure to prosecute and for failure to obey a court  
26 order, or

27 3. As an alternative to filing the showing of cause, Plaintiff may instead file an amended  
28

1 complaint.<sup>1</sup>

2 **Plaintiff is cautioned that failure to comply with this order within the time allotted**  
3 **may result in a recommendation that this matter be dismissed.**

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6 IT IS SO ORDERED.

7 Dated: **February 6, 2025**

**/s/ Gary S. Austin**  
UNITED STATES MAGISTRATE JUDGE

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27 <sup>1</sup> As Plaintiff is well aware, at any time during these proceedings, he may also voluntarily  
28 dismiss this matter. Additionally, should Plaintiff choose not to amend the complaint, the Court  
will presume that Plaintiff would like to stand on his last, properly filed complaint.